

## KANSAS RACING AND GAMING COMMISSION

### MINUTES – NOVEMBER 18, 2022

#### CALL TO ORDER (A.)

Chairman David Moses called the November 18, 2022, meeting to order at 10:00 a.m. The meeting was held at the Eisenhower State Office Building in Topeka, Kansas. Notice of this meeting was given to the public via the KRGC and Public Square websites. Commissioners Brandon Jones, Larry Turnquist, and Sheryl Spalding were also present. Others present included Executive Director Don Brownlee, General Counsel Judith Taylor, Director of Administration, Audit, and Finance Brandi White, Director of Security Roger Bailey, Director of Sports Wagering and Licensing DJ Lopez, Director of IT&C-s Dennis Bachman, and other staff.

#### MOTION, APPROVE AGENDA (B.)

Executive Director Brownlee made two amendments to the agenda; adding a New Business item under section G3 and an action item under L2, both dealing with historical horse racing regulations.

Commissioner Spalding (Turnquist) moved to approve the agenda as amended. Motion carried 4-0.

#### MOTION, APPROVE October 07, 2022 MEETING MINUTES (C.)

Commissioner Jones (Spalding) moved to approve the minutes of the October 07, 2022 meeting. Motion carried 4-0.

#### MOTION, APPROVE CONSENT AGENDA (D.)

Commissioner Turnquist (Jones) moved to approve the consent agenda (six items). Motion carried 4-0.

#### LOTTERY GAMING FACILITY REPORTS/ITEMS; BOOT HILL CASINO & RESORT (E.1.a.)

Diane Giardine, General Manager, reported:

- October 2022 revenue numbers compared to October 2021:
  - Total gaming revenue decrease 3.27%
  - Total slot revenue down 3.48%
  - Table games revenue down 1.36%
- October 2022 Sports Wagering revenue numbers
  - Retail Sportsbook Revenue: \$24,263.40
    - Currently operating a temporary retail sportsbook.
  - Digital Sportsbook Revenue: \$4,424,192.18
  - Handle grew 12.7% compared to September for the mobile platform.
- Events and Promotions:
  - Weekly Kiosk Games
  - Weekly Food and Beverage Specials

- Gift Promotions
- Charity Match Hot Seats
- VIP Promotions
- Holiday Donation Drive
- Hero Tree
- Upcoming Entertainment & Events
  - Los Angeles Azules – October 23
  - Jake Owen – November 5
  - Gloria Trevi – November 6
  - Los Chicos de 512 – November 18
  - Mannheim Steamroller – December 8
  - Jamey Johnson – December 16.

LOTTERY GAMING  
FACILITY  
REPORTS/ITEMS; KANSAS  
STAR  
(E.2.a.)

Doug Lang, Vice President and General Manager, reported:

- Admissions down 8.4% compared to October 2021
- October 2022 revenue numbers compared to October 2021:
  - Total gross gaming revenue down 7.2%
  - Slot coin-in down 12.1%
  - Slot hold up 0.09 pts
  - Table games drop up 4.0%
  - Table games hold up 1.2 pts
- October 2022 Sports Wagering
  - Retail Sportsbook Revenue: \$1,500,000.00
  - Digital Sportsbook Revenue: \$52,000,000.00
  - Gross Revenue: just under \$3,000,000.00
  - Largest Single Bet: \$30,500.00 on the Buccaneers. The wager paid out \$36,000.00.
  - Largest Payout: \$10,000 parlay paid out just over \$40,000.00.
- Past Events and Promotions:
  - Third Eye Blind – October 22, 2022
  - National Final Steer Roping – November 4-5, 2022
- Upcoming Events and Promotions:
  - Annual Boyd Donations five \$15,000.00 donations to local charities: Mulvane Local Fire Department, Local Food Bank, Ronald McDonald House in Wichita, the Humane Society, and Littlest Heroes
  - Kansas Sheriff's Association – November 14-16, 2022
  - Farm Expo Trade Show – December 1-3, 2022
- COVID-19
  - 6 positive cases in October and 4 so far in November

LOTTERY GAMING  
FACILITY  
REPORTS/ITEMS;  
HOLLYWOOD CASINO AT  
KANSAS SPEEDWAY  
(E.3.a.)

Lydia Garvey, Vice President & General Manager, reported:

- Admissions were up 8.2% compared to October 2021
- October 2022 revenue numbers compared to October 2021:
  - Total gross gaming revenue increase 4.3%
  - Slot revenue down 3%
  - Table games revenue up 41.1%
  - Commissioner Spalding asked what the 41.1% increase could be attributed to. General Manager Garvey said that it is likely due to cross-over play between table games and the sportsbook as well as staffing efforts by the facility.
  - Chairman Moses asked if gaming facilities have been able to track the impact of sports wagering on other types of gaming. Vice President Garvey said that they did see some lift in play in September when sports wagering first became available. There was also an increase in food and beverage sells. She said that it is too early to know the exact influence, but she is confident it is positive.
  - Sportsbook Revenue: \$309,600.00 down 12.8%
- Sports Wagering
  - Handle was up 30% compared to September
  - Largest Single Wager was on the Chiefs to beat Buffalo.
- Recent/Upcoming Events and Promotions:
  - October 29 – VIP Trick or Treat for Slotplay
  - November 1 - Sunflower State Drawing
  - November 4 - Turkey Roll to Win
  - November 5 - Email Pick Pull and Win
  - November 12 - \$30K Winners Party
  - November 18 - \$25K Gobble Up the Cash
  - November 23 - November Pie Giveaway
  - November 25 - \$100K Winners Weekend
  - December 1 - Sportsbook Scratchers
  - December 2 - Stuff Your Stocking
  - December 3 - Holiday Hi-Lo
- COVID-19
  - 7 cases in October and 4 so far in November.

LOTTERY GAMING  
FACILITY  
REPORTS/ITEMS; KANSAS  
CROSSING CASINO  
(E.4.a.)

Jeff McKain, General Manager, reported:

- Admissions down 7.7% compared to October 2021
- October 2022 revenue numbers compared to October 2021:
  - Coin in down 3.8%
  - Table games drop up 3.8%
  - Net slot revenue down 1.3%

- Net gaming revenue down 1.0%
- Events and Promotions:
  - October
    - Kiosk Multiplier games every Tuesday
    - Camp 49 Hot promotional specials every Wednesday
    - Casino Hot Seats every Thursday
    - Table Games Hot Seats every Friday
    - Cash is King promotion Friday the 28<sup>th</sup>
    - Monster Smash promotion every Saturday
    - Casino gift day every Saturday
    - Outside concert Saturday the 1<sup>st</sup> (Hairball)
    - Additional gift day on Sunday the 23<sup>rd</sup>.
  - November
    - Kiosk games every Monday.
    - Kiosk games every Tuesday.
    - Camp 49 Hot promotional specials on Wednesday.
    - Casino Hot Seats every Thursday.
    - Table Games Hot Seats on Fridays.
    - Cash Drop promotion on Fridays.
    - Cash is King month end promotion on Friday the 25<sup>th</sup>.
    - 20K November to Remember promotion every Saturday.
    - Casino gift day every Saturday.
    - Ginger Billy in the Corral on Saturday the 19<sup>th</sup>.
- Sports Wagering
  - Points Bet, Bet MGM, and Caesars are the mobile sports gaming platforms partners.
  - 20% of NFL wagers are on the Chiefs
  - 16% of college football is on KU and 5% is on K-State.
  - Retail sports wagering has not launched yet, expected to launch in the first quarter of 2023.
- COVID-19
  - 2 cases in October and 4 so far in November.

COMMISSION ITEMS –  
OLD BUSINESS (F.)

There was no old business

COMMISSION ITEMS –  
NEW BUSINESS; KANAS  
GREYHOUND REGISTRY  
CONTACT APPROVAL  
REQUEST (G.1)

Brandi White, Director of Administration, Finance, and Audit presented the proposal for the Kansas Greyhound Association to administer the Kansas Greyhound Registry for calendar years 2023 and 2024. Michael Strickland, Kansas Greyhound Association board member, and Jim Gartland, National Greyhound Association Executive Director, were available for questions.

Jim Gartland, National Greyhound Association Executive Director, requested that the contract be amended so that reports can be submitted quarterly instead of monthly. Brandi White confirmed that quarterly reports have been the norm and that it is likely due to oversight that the contract has a monthly reporting requirement.

Chairman Moses asked if there were still greyhounds at the farm south of Abilene. Michael Strickland explained that the property is his and that there are 150 greyhounds on the property.

Commissioner Jones (Spalding) moved to approve the KGA greyhound registry contract for calendar years 2023 and 2024 with no funding provided by KRGC with the modification that there be quarterly reporting requirement instead of monthly. Motion carried 4-0.

COMMISSION ITEMS –  
NEW BUSINESS; KANSAS  
CROSSING CASINO  
MATERIAL DEBT  
TRANSACTION  
APPROVAL REQUEST  
(G.2.a)

John C. Frieden, Frieden & Forbes, LLP presented the Kansas Crossing Casino's material debt transaction approval request. B.C. Christianson, majority owner of Kansas Crossing Real Estate and Kansas Crossing Casino, was not present but sent his thanks to the commissioners and staff for their efforts and years of a good working relationship. If the debt transaction is approved, Mr. Christianson will no longer be involved in any casinos in Kansas.

Aaron Gomes, Chief Operating Officer of Peninsula Pacific Entertainment, thanked the commission and staff for their time and remained available for questions.

MOTION, EXECUTIVE  
SESSION; KCC MATERIAL  
DEBT TRANSACTION  
(G.2.b)

Commissioner Spalding (Turnquist) moved that the Commission go into executive session for the purpose of conducting a confidential review and discussion of the Kansas Crossing Casino material debt transaction approval request, specifically considering whether the transaction would deprive the facility manager of financial stability, the financial condition of the affiliate, and the potential impact of any default on the gaming facility manager for twenty (20) minutes until 11:00 a.m. In addition to the commissioners, the confidential review and discussion of the Kansas Crossing Casino material debt transaction approval request will include the executive director and general counsel. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as

part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion carried 4-0, and the meeting was adjourned to executive session at 10:40 a.m.

RECONVENE  
(G.2.c)

The commission meeting returned to open session at 11:00 a.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTION FOR APPROVAL  
OF KCC TRANSACTION  
(G.2.d)

Commissioner Jones (Spalding) moved to approve the Kansas Crossing Casino material debt transaction request subject to KRGC review of the final financial documents.

COMMISSION ITEMS –  
NEW BUSINESS;  
HISTORICAL HORSE  
RACING REGULATION  
ADOPTION REQUEST (G.3)

Executive Director Don Brownlee presented the proposed historical horse racing regulations for adoption. KRGC's position moving forward would be to share the adopted regulations with industry partners and contracted gaming laboratories for review. This process was used in the creation of sports wagering regulations. After that process, an operational second draft of the historical horse racing regulations would be submitted to the commission for approval.

Chairman Moses asked if parimutuel statutes or regulations would be applied to historical horse racing or if that language would need to be repeated in historical horse racing regulations. Executive Director Brownlee confirmed that parimutuel statutes and regulations apply to historical horse racing and that the language would not need repeated.

PUBLIC COMMENTS (H.)

There were no public comments.

STAFF REPORTS  
(I.1. and I.2.)

Garrett Rogers, Paralegal, reported on the Voluntary Exclusion Program statistics for the month of October 2022 and the Q3 Illegal Gambling Report.

Executive Director Brownlee reported:

- Approval has been given to open a casino in Grand Island, Nebraska. Efforts are being made to open a casino in Omaha, but approval has not been given.
- Peninsula Entertainment has recently closed a deal with Churchill Downs to sell all their assets (Del Lago Casino in New York, Hardrock Casino in Iowa, Colonial Down racetrack in Virginia and 6 historical horse racing facility in Virginia).
- KRGC Enforcement Agent Jim Root was awarded the Bronze Wreath of Merit by the Wichita Police Department for his efforts in an investigation of an illegal gambling operation in Wichita.
  - The investigation led to 9 search warrants, several arrests, the seizures of over \$202,000.00 in cash, \$8,500 in tools, 4 cars, 1 trailer, and 72 gambling machines.
  - The investigation culminated in the forfeiture of all the seized assets and guilty pleas from the operations leader and two of his employees.
  - Commissioner Spalding asked what is done with the money that was forfeited. Executive Director Brownlee explained that depending on which jurisdiction is the lead jurisdiction the money will be awarded to them and typically the proceeds are shared between the jurisdictions. When KRGC is awarded forfeited funds they are deposited into the Asset Forfeiture Fund which can be used on items that the agency would not typically budget for.
- Since launching sports wagering in Kansas 96% of the bets statewide have come from online/mobile bets the remaining 4% are from retail locations.
- Bets have totaled \$378,000,000.00 with net revenue after payouts at \$3,600,000.00. The state receives 10% of the net revenue; 362,000.00.
- The draft sports wagering regulations have been presented to the Attorney Generals office and KRGC is beginning to receive feedback on those regulations.

- Sports wagering reports will be given by the executive director and gaming facility managers. Gaming facility managers will include sports wagering revenue reports in their monthly presentations. Executive Director Brownlee will give updates on statewide and national sports wagering news.
- Governor Kelly's budget office is not going to recommend inclusion of KRGC enhanced budget request which included funding for historical horse racing operations. They appear to be hesitant because of the pending lawsuit regarding historical horse racing. Should historical horse racing be implemented before budgets are revisited the budget office feels that KRGC will be able to get the necessary funds. After discussing with the Director of Administration, Audit, and Finance, KRGC will not appeal the decision.
- The next commission meeting is scheduled for December 16, 2022, at 10:00am in the Eisenhower State Office Building.

MOTION, EXECUTIVE  
SESSION; PERSONNEL  
ISSUES  
(J.1.)

Commissioner Turnquist (Jones) moved that the Commission go into executive session for the purpose of reviewing personnel issues presented today by the commission's executive director for thirty (30) minutes until 12:10 p.m. In addition to the commissioners, the personnel issues portion will include the executive director. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion carried 4-0, and the meeting was adjourned to executive session at 11:40 a.m.

RECONVENE  
(J.2.)

The commission meeting returned to open session at 12:10 p.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTION, EXECUTIVE  
SESSION; CONFIDENTIAL  
BACKGROUND REPORTS  
(J.3.)

Commissioner Spalding (Jones) moved that the Commission go into executive session for the purpose of reviewing confidential background reports presented today by the commission's security division. In addition to the commissioners, the confidential background reports portion included the executive director, general counsel, and director of security.



The total time for the executive session was anticipated to be ten (10) minutes until 12:20 p.m. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion carried 4-0, and the meeting was adjourned to executive session at 12:10 p.m.

RECONVENE  
(J.2.)

The commission meeting returned to open session at 12:20 p.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTION, EXECUTIVE  
SESSION; ATTORNEY-  
CLIENT PRIVILEGE  
(J.3.)

Commissioner Jones (Turnquist) moved that the Commission go into executive session for the purpose of consulting with the agency's attorney on attorney-client privileged communications. In addition to the commissioners, the attorney-client privileged communications will include the executive director and general counsel. After discussion, the total time for the executive session was anticipated to be forty (40) minutes until 1:00 p.m. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. The motion carried 4-0, and the meeting was adjourned to executive session at 12:20 p.m.

RECONVENE  
(J.4.)

The commission meeting returned to open session at 1:00 p.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTIONS ON LICENSE  
APPLICATIONS  
(K.1.)

Commissioner Turnquist (Spalding) moved to *deny three* license application and *approve the remaining 242* license applications from the November 18, 2022, list of background reports referred to the commission for action. The motion carried 4-0.

MOTIONS ON  
HISTORICAL HORSE  
RACING REGULATION  
ADOPTION

Commissioner Turnquist (Jones) moved adopt the temporary draft historical horse racing regulations presented to the commission this morning. The motion carried 4-0.

(K.2)

OTHER BUSINESS


There were no other items for discussion or motion.

ADJOURNMENT  
(L.)


Chairman Moses stated that the December 16, 2022 commission meeting will begin at 10:00 a.m. for an in-person meeting at the Eisenhower State Office Building in Topeka, Kansas.

Commissioner Spalding (Jones) moved to adjourn the meeting. Motion passed 4-0. The meeting was adjourned at 1:04 p.m.

SUBMITTED BY:

  
Larry Turnquist  
Secretary

APPROVED BY:

  
David Moses  
Chairman